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Process fee levied under the Malabar Tenancy Act

* 2083 *Q.*—SRI V. R. KRISHNA AYYAR: Will the Hon. the Minister for Revenue be pleased to state—

(*a*) the rate of process fee levied on parties by Rent Courts under the Malabar Tenancy Act;

(*b*) if so, when such instructions were issued; and

(*c*) what the rate fixed is?

THE HON. SRI M. A. MANICKAVELU :—" (*a*) *to* (*c*) In hearing an application under the Malabar Tenancy Act, the Rent Courts have, so far as may be the same powers as are vested in, and are to follow the same procedure as is followed by, a Court of Small Causes. The Rent Courts can therefore charge the same process fee as a Court of Small Causes. As there was no specific instructions in the matter, some Rent Courts were levying process fees while others were not. The Government have therefore issued instructions in May 1955 to the effect that Rent Courts constituted under the Malabar Tenancy Act should charge process fee at the rate charged by the Provincial Small Cause Courts."

SRI V. R. KRISHNA AYYAR :—" The Malabar Tenancy Act says that the Civil Procedure Code applies to Rent Courts. The same Act again says that Rent Courts shall, for trial of the applications, adopt the procedure followed by a Court of Small Causes. The procedure to be followed by the Rent Courts and the levy of process fees are totally different. It is a different thing altogether that the process fee should be levied at a certain rate for the purpose of summoning witnesses or for the purpose of serving notice upon the respondents. The process fee leviable does not depend upon the Civil Procedure Code. Nor is there anything in the Small Cause Courts Act. Process fee is a levy for the purpose of actual service. So may I suggest that the two things may be considered separately and since it is the tenants who belong to the poorer sections file such applications, the process fees may be waived so far as applications to Rent Courts are concerned?"

THE HON. SRI M. A. MANICKAVELU :—" Sir, I think that the question of exempting payment of process fees is not desirable but as regards the different procedure followed, the question of amending the Civil Rules of Practice is under the consideration of the Government."

SRI P. RAMAMURTHI :—" Sir, I am afraid that the Hon. Minister has misunderstood the purport of the question. The Malabar Tenancy Act was passed for the purpose of conferring certain rights of occupancy on the tenants who did not enjoy those rights before. The question is whether these poor people, on whom the Legislature thought it necessary to confer the benefit of occupancy rights, should also spend a large sum of money for the purpose of getting that right. Is it the intention of the Government

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that these people should not get the benefit of those rights because they are not able to pay the money? Obviously, that cannot be the intention of the Government. Therefore, the question of procedure is entirely different from the question of the levy of process fees. Will the Government therefore reconsider the whole question and exempt these people from payment of process fees? ''

THE HON. SRI M. A. MANICKAVELU :—'' No, Sir. The fee is as low as 8 annas in respect of first service and for any additional service it is 4 annas.''

SRI T. C. NARAYANAN NAMBIAR :—'' Will the Hon. Minister be pleased to state whether he has taken any action on the representation of M.L.As. and representatives of the Kisan Sabha and on the memorandum submitted by 75,000 tenants of Malabar requesting to see that the levy of process fees is not made obligatory? Most of the landlords evade the service of notice, and so many times the peasants have to give process fee. In view of this difficulty, will the Government examine this question and take action immediately, if they have not already taken action? '' 8–50 a.m.

THE HON. SRI M. A. MANICKAVELU :—'' A certain procedure has to be followed in deciding this question. Here we are following a procedure different from the summary procedure that we follow in some other cases. The petition being a bulky one and containing representations on a number of matters, the hon. Member will concede that it has to be carefully looked into. It is being examined.''

DR. K. B. MENON :—'' The rate of process fee quoted by the Minister amounts almost to a day's wage of the tenant. Most of the tenants are very poor and they have very often to repeat payment of process fee. Will the Government be pleased to consider either reduction or complete cancellation of process fee? ''

THE HON. SRI M. A. MANICKAVELU :—'' The Government will take this aspect also into consideration when they amend the Civil Rules of Practice.''

SRI V. R. KRISHNA AYYAR :—'' The Hon. Minister said that the rate of fee was as low as 4 annas, 8 annas and so on. But then, in a joint family where a suit for partition has been filed, all the members happen to be landlords and notice has to be served on all of them. In some cases, there may be as many as 100 or 150 members. In such cases, it is almost baffling and beyond the means of the tenants to pay process fee. I know of instances where tenants relinquished their right to apply for fair rent, because the fair rent will be much less than the process fee. The procedure for furnishing of pleadings and framing of issues is quite different and it has nothing to do with the levy of process fee. May I request the Hon. Minister to consider this and exempt petitions from the payment of process fee? ''

THE HON. SRI M. A. MANICKAVELU :—'' When examining this question, I shall bear this aspect in mind.''